

Salas v. Hi-Tech Erectors
Dissent by Alexander, J.

No. 81590-9

ALEXANDER, J. (dissenting)—The majority properly concludes that evidence of Alex Salas' immigration status met the ER 401 relevance standard on the issue of Salas' claim for lost future earnings. Nevertheless, it reverses the Court of Appeals' decision affirming the trial court's admission of that evidence, concluding that the probative value of this evidence was outweighed by the danger that it would unfairly prejudice the party against whom it was offered.

A trial court's decision to admit or exclude evidence is reviewed for an abuse of discretion. The majority concedes that point, as well as the principle that a trial court abuses its discretion only when its decision is manifestly unreasonable or based upon untenable grounds or reasons. Majority at 4. Although another trial judge here might have declined to admit evidence of Salas' immigration status, I cannot say that the trial court's decision to admit it was manifestly unreasonable or based on untenable grounds. Neither can I say that it was a decision that no reasonable judge would have made. See *In re Pers. Restraint of Duncan*, 167 Wn.2d 398, 402, 219 P.3d 666 (2009). Thus, I believe that we should affirm the courts below. Because the majority reaches

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the opposite conclusion, I dissent.

AUTHOR:

Justice Gerry L. Alexander

WE CONCUR:

Justice James M. Johnson
